

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

RESIDENTIAL CAPITAL, LLC, et al,

Case No.: 12-12020-mg

Debtors.

x

**STATEMENT OF ISSUES AND DESIGNATION OF RECORD ON
APPEAL**

Appellant, Phillip Scott, by counsel, Kim DSouza, respectfully submits this statement of issues to be presented on appeal and designation of record items to be included in the record on appeal, to the United States District Court for the Southern District of New York in connection with the Notice of Appeal filed January 2, 2014.

1. STATEMENT OF ISSUES PRESENTED

The Bankruptcy Court erroneously:

- I. denied enforcement for violation of automatic stay brought on behalf of non-debtor subsidiary without addressing evidence of record, of fraud, which establishes calculable economic hardship to the estate, and
- II. granted declaratory judgment in favor of DIP, notwithstanding its own finding of a lack of subject matter jurisdiction, and in violation of the Rooker-Feldman doctrine, that the bankruptcy estate does not include the mortgage, and that the

state foreclosure action was “filed by the trustee for the trust that owns the note and mortgage”, and

III. denied the motion, for a lack of subject matter jurisdiction, although Appellant owned title to premises subject to note in DIP’s possession, and Appellant met condition precedent for derivative standing for creditor.

2. DESIGNATION OF RECORD ITEMS FOR APPEAL

Appellant designates the items listed below to be included in the record on appeal.

Designation No.	Date of Filing	PACER No.	Description
1	8/12/12	12-01671 #82	Order, US SDNY District Court Judge Denise L. Cotes
1	10/12/12	12-12020 # 1813	Order, US SDNY Bankruptcy Court Judge Martin Glenn
2	5/20/13	12-12020 # 3781	Order, US SDNY District Court Judge Denise L. Cotes
3	7/15/13	12-3342	Order, US CAP 2 nd , Circuit Court Clerk Catherine O’Hagan Wolfe; 12-3342
4	8/9/13	12-12020 # 4649	Notice of Motion by Phillip Scott
5	8/12/13	12-5116 #41	Order USDC SDNY Judge Denise L. Cotes
6	8/23/13	12-12020 #4819	Debtor’s Notice of Filing
6	10/2/13	12-12020 #5236	Debtor’s Objection to Motion
7	12/19/13	12-12020 #6154	Order Denying Phillip Scott’s Motion
8	1/2/14	12-12020 #6219	Notice of Appeal

DATED: January 9, 2014



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